



CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 04/11/02

Agenda Item 1

TO: PLANNING COMMISSION

FROM: Lorna Carranza, ASLA, Landscape Architect

SUBJECT: Text Change Application PL – 2002-0042 - Initiated by the Planning Director – Request for an Amendment to Chapter 10, Article 15, of the Hayward Municipal Code, “Preservation of Trees” Sections 10-15.10 through 10-15.30.

RECOMMENDATION:

It is recommended that Planning Commission recommend that the City Council adopt the Negative Declaration and approve the amendments to the “Preservation of Trees” Ordinance subject to the attached findings.

DISCUSSION:

There have been numerous occasions when street trees, trees that were required to be planted as part of a commercial, industrial, or residential development were removed, decapitated, or pruned in such a way that the trees were effectively destroyed. Also, there have been instances of indiscriminate removal of trees on land where future development was anticipated. When trees are removed, damaged, and destroyed, it can have a profound effect on the visual perception of the City. This type of destruction is what the original “Preservation of Trees” Ordinance was established to prevent. However, it has become increasingly clear that the Ordinance needs further clarification, more specificity about which trees should be protected, establishment of a means for determining the value of trees to be protected, and a more effective methods of dealing with violations.

At a City Council work session in February 2000, staff was directed to revise the Preservation of Trees Ordinance and to add fines for damaging or destroying trees. The project was delayed until the recent hiring of a City Landscape Architect. The attached recommended Ordinance clarifies the City’s preservation stance, adopts a method of determining value associated with protected trees that is consistent with fees imposed in other Bay Area cities, and establishes fines that will underscore the value of the trees that contribute to the value of our neighborhoods and the City’s image. The proposed Ordinance amendments recognize the importance of preserving significant trees and at the same time acknowledge the development rights of property owners. Additions to the Ordinance are noted by highlighted text; deletions

are noted by strikeouts. The major issues of the proposed revised Ordinance are discussed below.

- The definition section (Section 10-15.11) is proposed to be augmented significantly in order to clarify the meaning of certain words as used in the context of the Ordinance.
- Other sections (10-15.12 through 14) were added to further define the kinds and sizes of trees to be protected according to accepted standards, to require the property owners to protect their trees and to define the City's liability.
- Section 10-15.20 incorporates new wording regarding determining the value of trees for establishing replacement costs.
- The process and information required on the permit for tree removal and tree trimming are outlined in Section 10-15.21.
- The amendments standardize the requirements and criteria for evaluating trees in conjunction with a tree removal application (Sections 10-15.22 and 23). For example, in cases involving removal of more than three trees, a certified arborist must provide information on the general health and form of the trees at issue.
- The current Ordinance addresses trees on properties of single-family homeowners only when their properties can be further subdivided to create additional home sites. This is unchanged from the present ordinance. However, the proposed amendments expand its authority over all single-family parcels in that trees required as part of a tract or other conditions of approval of discretionary acts would be protected. For example, if approval of a tract requires that certain trees be planted or significant trees be saved, subsequent property owners would be obliged to maintain the trees and to not remove them without an approved tree removal permit. Otherwise, the property owner would be subject to penalty. As proposed, this Ordinance does not address single-family parcels that have trees of significant size, such as mature oaks, black walnuts or other native trees. Therefore, no tree removal permits would be necessary for an individual single-family homeowner to fell a mature tree of significant size and worth unless installed as a requirement of the tract or otherwise required to be maintained as a condition of a development approval.
- The appeal process has been modified in cases where individuals seeking a tree removal permit or who are subject to fines for unauthorized tree removal disagree with the findings of the City's Landscape Architect. The appeal process mirrors that for other discretionary permits, i.e., to the Planning Commission and, upon further appeal, to the City Council.

- Sections 10-15.26 through 29 outline penalties, collections, injunctive relief, and liens. The value of the trees will be determined by standards set by the International Society of Arboriculture. These are the same standards used by other local municipalities. Violations of this Ordinance will also be a misdemeanor, which can be criminally prosecuted. The revised Ordinance allows the City to lien properties if necessary to achieve compliance with the Ordinance. These penalties are intended to discourage individuals from felling trees in order to make room for future development or to dissuade individuals from disregarding the importance of a significant tree to their street, their neighborhood, and their community.

CONCLUSION:

Adoption of this Ordinance would apply Citywide and create a performance standard applicable to all City properties, except for the single-family parcels mentioned above. Exceptions have also been provided for emergency conditions. Street trees within the public right-of-way would continue to be maintained under the current "Street Tree Ordinance."


ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA) Guidelines, it was determined that this project would not have a negative impact on the environment and a negative declaration has been prepared.


PUBLIC NOTICE:

Notice of this hearing was advertised in the Daily Review, sent to all recognized homeowners and neighborhood associations, former members of neighborhood task forces, the Chamber of Commerce, the local Board of Realtors, local developers, local landscape architects, arborists, landscape contractors, landscape maintenance companies, and Hayward Area Recreation District. The City has received several phone calls from the public and the Chamber of Commerce regarding this issue. About half supported additional restrictions on tree removal and trimming and half objected to the proposed amended ordinance in that they believe it limits property rights. The Chamber of Commerce expressed support for the concept of revising the Ordinance. A letter received from Mr. John Kyle, is attached wherein he objects to portions of the Tree Preservation Ordinance.

Prepared by:


Lorna Carranza, ASLA
Landscape Architect

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Findings of Approval of Amendment
- B. Draft Ordinance
- C. Negative Declaration and Environmental Checklist
- D. Letter from Mr. John Kyle

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FINDINGS FOR APPROVAL
AMENDMENT TO THE ORDINANCE FOR PRESERVATION OF TREES,
SECTIONS 10-15.10 through 10-15.30
MINIMUM DESIGN AND PERFORMANCE STANDARDS
TEXT CHANGE NO. 2002-0042

- A. In accordance with California Environmental Quality Act (CEQA) Guidelines, it was determined that this amendment would not have a negative impact on the environment and a negative declaration has been prepared. The Preservation of City trees will improve the environmental quality of the City of Hayward.
- B. Substantial proof exists that the proposed text change relative to the protection of certain specified trees in the City of Hayward will promote the public health, safety, convenience, and general welfare of the residents, business operators and industries in Hayward by maintaining the natural ecology of the area, providing protection from flooding and risk of landslides, reducing heat gain and tempering the effect of extreme temperatures, and increasing oxygen output and reducing carbon dioxide helping to combat air pollution.
- C. The proposed text change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans in that the General Policies Plan calls for mature trees to be protected in place wherever possible and calls for trees to be planted in parking lots and along streets for shade, and trees to be planted between conflicting uses to help buffer those uses from each other.
- D. Preserving and protecting certain specified trees as outlined in the text amendments will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations in that trees will be protected from removal and disfigurement by incorrect pruning practices. In addition, trees that are damaged or removed will be required to be replaced with like kind, like size trees or equal.

ARTICLE 15

PRESERVATION OF TREES

TREE PRESERVATION

Section	Subject Matter
10-15.10	PURPOSE AND INTENT
10-15.11	DEFINITIONS
10-15.12	PROTECTED TREES
10-15.13	PRESERVATION OF PROTECTED TREES
10-15.14	NON-LIABILITY OF CITY
10-15.20	PERMIT REQUIRED TO REMOVE TREE FROM PRIVATE PROPERTY OR PRUNE OR RESHAPE PROTECTED TREES
10-15.21	APPLICATION FOR TREE REMOVAL OR TRIMMING PERMIT
10-15.22	CRITERIA FOR EVALUATING APPLICATIONS
10-15.23	CONDITIONS OF APPROVAL
10-15.24	EXCEPTIONS
10-15.25	PERMIT APPEALS
10-15.26	PENALTIES FOR VIOLATION OF CHAPTER; APPEALS
10-15.27	COLLECTION OF PENALTIES
10-15.28	MISDEMEANOR; INJUNCTIVE RELIEF
10-15.29	IMPOSITION OF LIEN
10-15.30	TERMINATION OF PERMIT

ARTICLE 15

PRESERVATION OF TREES TREE PRESERVATION

(As added by Ord. No. 71-038 C.S., adopted June 22, 1971)
(Article Renumbered by Ord. 99-14, adopted September 7, 1999)

SEC. 10-15.10 PURPOSE AND INTENT. The City of Hayward contains many species of native and non-native trees of significant size and quality that contribute in a positive way to its environment. Trees that are properly maintained increase property values, maintain the natural ecology, temper the effects of extreme temperatures, reduce runoff, prevent erosion of topsoil, and help create and maintain the identity and visual character of the City. Trees can help to provide protection from flooding and risks of landslides. They also increase oxygen output, which helps to combat air pollution. This Ordinance is intended to protect and preserve significant trees and control the re-shaping, removal or relocation of those trees that provide benefits for our entire community while recognizing that there are rights to develop private property.

The City Council hereby finds that the wanton and wholesale destruction of trees could decimate the scenic beauty of the area, cause erosion of top soil, create flood hazard and risk of landslides, reduce property values, and increase the cost of construction and maintenance of drainage systems through the increased flow and diversion of surface waters.

For these reasons the City Council finds it in the public interest, convenience and necessity to enact regulations as may be reasonably consistent with the economic enjoyment of private property which will control the removal, trimming or relocation of trees within the City in order to eliminate the aforesaid injurious effects of such tree removal or trimming that is not in conformance with the International Society of Arboriculture (ISA) standards.

SEC. 10-15.11 DEFINITIONS. For the purposes herein, certain words and phrases are defined, and certain provisions shall be construed, as herein set out, unless it shall be apparent from their context a different meaning is intended.

Certified Arborist. A "Certified Arborist" shall be as defined by the International Society of Arboriculture. It shall include a "Consulting Arborist" who satisfied the requirements of the American Society of Consulting Arborists (ASCA) and who is determined by ASCA to meet the standards of Certified or Consulting Arborist as defined above.

Cutting. "Cutting" shall mean the detaching or separating from a protected tree any live limb, branch, or root. Cutting shall include pruning.

Damage. "Damage" shall mean any action that causes permanent injury, death or disfigurement to a tree. This may include, but is not limited to, cutting, poisoning, over watering, withholding water, unauthorized relocating or transplanting of a protected tree, trenching, excavating, or paving within the protected zone of a tree.

Disfigurement. "Disfigurement" shall mean the unsightly and injurious trimming of a protected tree. This shall include tree-trimming practices that are not in conformance with the International Society of Arboriculture standards. It shall include pruning practices such as stubbing, heading, heading back, stubbing off, pollarding, tipping, hat racking, topping off, de-horning, lopping, or rounding over any Protected trees. These practices are not permitted with or without a permit from the City of Hayward. Existing pollarded trees shall be examined on a case-by-case basis as permits for trimming Protected trees are requested.

Deadwood. "Deadwood" shall mean the limbs, branches, or portion of a tree that contains no green leaves or live wood during a period of the year when green leaves should be present.

Dripline. The "Dripline" shall mean all of the area of ground underneath the tree to the outermost edge of any portion of the tree's canopy. When depicted in plan view, the dripline will appear as an irregularly shaped circle that follows the outline of the tree's canopy as seen from above.

Encroachment. "Encroachment" shall mean any intrusion of human activity into the protected zone of a Landmark or Protected tree. This includes, but is not limited to, pruning, grading, excavating, trenching, installation of fencing, parking vehicles, driving, storing materials or equipment, or construction of structures or other improvements.

Memorial Tree. "Memorial Tree" shall mean any tree planted in memory of or in commemoration of an individual or individuals or a specific event by an entity recognized by the City of Hayward. This in general will not include Christmas trees planted by a family or other similar type plantings.

Person. "Person" shall mean any natural person, partnership, firm, corporation, governmental agency, or other legal entity.

Pollard. To drastically trim a tree removing the majority of the branching structure so that all that remains are stubs of the main branches, which then are forced to put out new branches. The new branches are weakly attached to the main structure of the tree. Because of the cuts, the tree is usually susceptible to any air borne diseases and invasive insects.

Protected Tree. "Protected Tree" shall mean a tree of a specific species or size which may not be reshaped, altered, damaged, relocated or removed without first obtaining a Tree Removal Permit from the City of Hayward. Protected trees shall not include trees planted and growing in a licensed nursery for sale or planted and grown as a part of an active commercial orchard.

Protected Zone. The "Protected Zone" shall mean the area located under the undisturbed canopy of the tree as described in "Dripline" and extending for an additional (1) foot from the center point of the tree to beyond the farthest point of the dripline of the tree. It shall in no case be less than (10) feet from the trunk of any protected tree.

Relocation. "Relocation" shall mean the transplanting of a tree from its original location to another suitable location.

Removal. "Removal" shall mean the physical removal of a tree or causing the death or untimely decline of a tree through actions including but not limited to damage, destruction, unnecessary disfigurement, withholding water, poisoning, or other deliberate or willful action or inaction.

Routine Maintenance. "Routine Maintenance" shall mean actions needed for the continued health of a tree or other vegetation including but not limited to, the removal of deadwood or storm damaged branches, insect or disease control, weed control, removal of sucker growth, watering and providing soil amendments as necessary.

Specimen Tree. A "Specimen Tree" shall mean a tree that is representative of a particular species in form and size. It is a tree that may also represent the character of an area or neighborhood such as a live or valley oak in the foothill areas, redwoods along the northern

California coast or a specific tree that is common in a particular neighborhood.

Street Tree. A "Street Tree" is a tree that is planted in the right-of-way of a street and is also maintained by the City. It is usually located in the planter strip between the curb and the sidewalk.

Tree. A "tree" shall mean any woody perennial plant characterized by having a major single trunk or multi-trunk structure at least (10') high and having a major trunk of a circumference of thirty (30) inches or more, measured at twenty-four (24) inches above with a caliper of at least (four) inches measured (54") above the ground level.

Undeveloped Parcel. An "undeveloped parcel" shall mean any lot or parcel, or portion of a lot, or parcel, which can be further subdivided or divided, or more intensively developed, under the City's zoning or subdivision regulations, or other ordinances or regulations of the City.

SEC. 10-15.12 PROTECTED TREES. The following trees are hereby classified as Protected Trees within the City limits of the City of Hayward:

1. Trees having a minimum trunk diameter of 6" measured 54" above the ground. When measuring a multi trunk tree, add together the diameters of the largest 3 trunks. Trees located on a single-family residential lot that cannot be further subdivided are exempted.
2. Street trees or other required trees such as those required as a Condition of Approval, Use Permit, or other Zoning requirement regardless of its size.
3. All memorial trees dedicated by an entity recognized by the City, and all specimen trees that define a neighborhood or community.
4. Trees of the following species that have reached a minimum of 4" diameter trunk size:
 - a. Big Leaf Maple *Acer macrophyllum*
 - b. California Buckeye *Aesculus californica*
 - c. White Alder *Alnus rhombifolia*
 - d. Madrone *Arbutus menziesii*
 - e. Western Dogwood *Cornus nuttallii*
 - f. California Sycamore *Platanus racemosa*
 - g. Coast Live Oak *Quercus agrifolia*
 - h. Canyon Live Oak *Quercus chrysolepis*
 - i. Blue Oak *Quercus douglassii*
 - j. Oregon White Oak *Quercus garryana*
 - k. California Black Oak *Quercus kelloggi*
 - l. Valley Oak *Quercus lobata*
 - m. Interior Live Oak *Quercus wislizenii*
 - n. Coast Redwood *Sequoia sempervirens*
 - o. California Bay *Umbellularia californica*
5. A tree or trees of any size planted as a replacement for a Protected Tree.

SEC. 10-15.13 PRESERVATION OF PROTECTED TREES. Any Person who owns, controls, has custody of or possession of any real property within the City shall maintain all Protected trees located thereon in a state of good health. This includes parcels designated as permanent open space or for recreational purposes. Failure to maintain said trees in a state of good health will constitute a violation of this section.

SEC. 10-15.14 NON-LIABILITY OF CITY. Nothing in this Chapter shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of any public property or the owner of any private property shall have a duty to keep protected trees upon the property and under their control in

a safe and healthy condition. Except as allowed under other sections of this Chapter, any person who believes a Protected tree located on property possessed, controlled, or owned by them is a danger to the safety of themselves, others, or structural improvements on-site or off-site shall have an obligation to secure the area around the Protected tree or support the Protected tree, as appropriate to safeguard both persons and improvements from harm.

SEC. 10-15.20 PERMIT REQUIRED TO REMOVE PROTECTED TREE FROM PRIVATE PROPERTY, OR PRUNE OR RESHAPE PROTECTED TREES. No person shall remove, destroy, or disfigure or cause to be removed or destroyed or disfigured any Protected tree from any undeveloped parcel without having first obtained a permit to do so. Trees within the right-of way are covered under the Street Tree Ordinance. All Protected Trees shall require a permit for removal, pruning or reshaping. All removed or disfigured trees shall also require replacement with like-size, like-kind trees as determined by the City's Landscape Architect. If a replacement tree is unavailable in that size or kind, the value of the original Protected tree shall be determined using the "Guide for Plant Appraisal" latest Edition by the International Society of Arboriculture. The valuation shall be used to determine the number and size of replacement trees required.

The replacement trees shall be located on site wherever possible. Where there is not sufficient room on site for the replacement trees in the judgment of the City Landscape Architect or his or her designated representative, another site may be designated that is mutually agreeable. Where a replacement site cannot be found, the monies shall be placed in a City of Hayward fund designated to replace or install public trees. These replacement trees shall not be counted as part of the required trees to meet zoning standards for the original site.

Utilities shall not be exempted from using International Society of Arboriculture best practices although they or their sub-contractor may receive a yearly permit for all Protected trees to be trimmed.

Street trees trimmed or removed by the City or its designees shall be in accordance with the requirements of the City Landscape Manager as designated in the Street Tree Ordinance and will not require a separate permit.

- (a) Any person or his or her authorized agent desiring to remove or destroy one or more trees may apply, in writing, to the Landscape Architect for such permit. Said application shall include a plot plan showing the number and location of all trees on the parcel, shall designate those to be removed, and shall contain a brief statement of the reason for removal as well as any other pertinent information the Landscape Architect may require. On receipt of such application, the Landscape Architect or his or her designated representative shall inspect the premises and determine which trees may be removed.
- (b) The determination of the Landscape Architect or his or her designated representative shall be based on the following criteria:
 - (1) The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, interference with utility services, and interference with neighboring property owner's views.
 - (2) Necessity to remove trees in order to construct proposed improvements to allow enjoyment of substantial property rights.
 - (3) Topography of the land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters.

- _____ (4) ~~The number of trees existing in the neighborhood and the effect of tree removal upon property values in the area.~~
- _____ (5) ~~Good forestry practices, i.e., the number of healthy trees that a given parcel will support.~~
- _____ (6) ~~The tree in question is of landmark importance and its retention as such will not unreasonably interfere with the use of the property upon which it is located.~~
- _____ ~~The Landscape Architect shall give priority of inspection to those requests based on hazard or danger of disease.~~
- (c) ~~In case of emergency caused by a tree being in a hazardous or dangerous condition, such tree may be removed with permission of any member of the police or fire departments, or the Landscape Architect.~~
- _____ (d) ~~No person shall cut, move, or remove any tree in violation of the terms or conditions of any permit granted hereunder.~~
- _____ (e) ~~The Landscape Architect or his or her designated representative may condition approval of tree removal upon the planting of replacement trees.~~
- (Amended by Ord. 95-10, adopted February 21, 1995)

SEC. 10-15.21 APPLICATION FOR PROTECTED TREE REMOVAL OR TRIMMING PERMIT. An application for a Protected tree removal or trimming permit shall be filed for all Protected Trees along with the inspection fee as established in the City's Master Fee Schedule. The application shall be filed and approved prior to any tree removals. Where the Protected tree removal, relocation, or encroachment into the protected zone of a tree is requested as part of the development of a lot or parcel, the application must be processed prior to the issuance of any grading, trenching, encroachment, demolition, or building permit for development. The following information must be included in the application:

- A statement giving the reason for the request for encroachment, relocation, re-shaping, or removal of the Protected Tree. The applicant must show what efforts they have made to preserve the tree in place.
- The number, species, size including approximate height and dripline of each tree, and the general health of the tree as determined by a certified arborist. If three or less trees are involved, an arborist may not be required at the discretion of the City Landscape Architect.
- A plot plan showing the location of all Protected trees to be removed, relocated, re-shaped or encroached upon including their trunk and the dripline. The plan shall also include the location of all existing and proposed improvements including walks and paving when applicable. The plan shall show all existing and proposed changes in grade and the effect of the proposed change in grade on the Protected tree.
- Photographs of the subject Protected tree or trees with a person or other object indicating scale.
- Proposed method of re-shaping, encroachment, relocation or removal.
- Proposed location of the relocated tree, new dripline, or replacement tree(s).
- Proposed method of recycling of green waste.

On receipt of such application, the City Landscape Architect or his or her designated representative shall inspect the premises and determine which Protected trees may be removed.

SEC. 10-15.22 CRITERIA FOR EVALUATING APPLICATIONS.

The City Landscape Architect, when evaluating Protected tree removal requests will use the following criteria:

- The condition of the existing tree with respect to disease, danger of falling, or deadwood shall be considered.
- Danger to the public or to other Protected Trees in its present condition or location.
- Interference with existing utilities or with a neighboring property's view; provided that the view interference was not pre-existing or the tree is estimated not to have existed prior to the neighboring house being built.
- Whether the Protected tree is a Street Tree or Memorial Tree.
- Whether the Protected tree is lifting sidewalks and the sidewalk cannot be re-poured with a root barrier or relocated to preserve the tree.
- The need to remove, relocate, re-shape, or encroach into the protected zone of a tree in order to allow reasonable economic enjoyment or use of the property.
- Whether the Protected tree is anchoring a slope or the removal or disturbance of the protected zone of the tree would cause erosion, loss of soil, increase the flow of surface runoff, or cause a diversion of water that would affect downstream properties.
- The total number of overall or Protected trees on the property in comparison to surrounding properties and the effect the tree removal would have on surrounding property values.
- An effort has been made to preserve the character of the area and the more valuable specimens have been preserved or relocated on site.
- Whether the property will support the number of existing trees, taking into consideration any proposed development and zoning for the property, in a healthy growing condition and whether a different layout might allow for the preservation of the tree(s) in place.
- Whether the tree is encroaching on or damaging the existing primary residence or development and if it is, whether it could be trimmed or reshaped in a natural looking form or the roots pruned and redirected with root barriers to protect the existing development.

SEC. 10-15.23 CONDITIONS OF APPROVAL. No person shall cut, move, or remove any Protected tree in violation of the terms or conditions of any permit granted hereunder. Tree Removal permits shall include such conditions of approval as are appropriate to effect the purpose of this Ordinance. Such conditions may include, but are not limited to, the following:

- Replacement of trees removed or destroyed with a tree or trees equal in size and species as provided in Section 10-15.20.
- The retention of a certified arborist to supervise all pruning both of branches and roots, re-shaping, trimming or relocation of Protected trees.
- The branch and root structure of all Protected trees to remain in place or Protected trees that have been relocated on site shall be protected by the use of a substantial construction fence, such as a non movable chain link fence, placed around the Protected Zone of each Protected tree. This fence shall not be removed until construction equipment, materials, and debris have been removed from the site and with approval from the City Landscape Architect. Such protection shall be in place prior to any construction equipment or material being on site. No mechanical equipment, material, debris, paint or paint products, pallets, chemicals, contaminated water or other foreign material shall be allowed to be placed, poured, piled, pushed, or stored within the Protected Zone of any tree.
- Each Protected tree or any tree designated to remain in place on the construction site shall receive Routine Maintenance during the entire construction process.

SEC. 10-15.24 EXCEPTIONS. An application for a Protected tree removal permit and the required permit is not required under the following conditions:

- Emergency Circumstances: If personal injury or property damage is eminently

threatened due to the hazardous or dangerous condition of a Protected tree as determined by the City Landscape Architect or if the Protected tree is an immediate impediment to the work of any public safety officers, a Protected tree may be trimmed or removed upon the order of the City Landscape Architect, Planning Director, Police Chief, Fire Chief, City Manager or their authorized representative. However, if the Protected tree is removed, the City will require it to be replaced by the owner, if applicable zoning regulations require the tree, if it was required as a Condition of Approval or it was required under a Conditional Use Permit.

- The owner or his or her designated representative has previously received a permit to remove a Protected tree and the tree has re-grown with sucker growth or from the stump of the removed tree.
- A permit shall NOT be required for the removal of a tree on a single family residential property where the property cannot be further subdivided, divided, or more intensively developed under the City's Zoning or Subdivision regulations UNLESS the tree was required to be planted or protected in place as a part of a previous subdivision, rezoning, or requirement of development.

SEC. 10-15.25 PERMIT APPEALS. Any affected party may appeal a permit decision made by the Landscape Architect or his or her designated representative may be appealed to the City Council, to the Planning Commission in accordance with the appeals process detailed in Section 10-1.2845. The Planning Commission may approve, conditionally approve or disapprove the application based on the criteria listed in Section 10-15.22.

The decision of the Planning Commission may be appealed to the City Council. Such appeal must be submitted in writing to the City Clerk within 10 days of the date action was taken by the Landscape Architect, and briefly state the grounds for such appeal. The City Clerk shall set the matter for hearing before the City Council no later than 30 days from the date of filing such appeal, and shall notify appellant and the Landscape Architect of such hearing date.

— In determining the appeal, the City Council shall be guided by the criteria for issuance of a permit and may affirm reverse or modify the action taken by the Landscape Architect. T in accordance with the appeals process detailed in Section 10-1.2845. The City Council may approve, conditionally approve, or disapprove the application based on the criteria listed in Section 10-15.22

- (1) In the event significant new evidence, which may include substantial changes in the proposal, is presented in conjunction with the appeal, the matter shall be returned to the Planning Commission for further consideration and action.

In the absence of significant new evidence, the action of the City Council shall be final and conclusive. (Amended by Ord. 95-10, adopted February 21, 1995)

SEC. 10-15.26 PENALTIES FOR VIOLATION OF ARTICLE 15.

Should a Protected tree be substantially re-shaped, topped, removed, damaged or destroyed without a permit, a fine equal to the value of the Protected tree shall be charged in addition to the replacement of the Protected tree with a like-kind, like-size tree. The value of the original Protected tree shall be determined using the "Guide for Plant Appraisal" latest Edition by the International Society of Arboriculture. If the size of the Protected tree cannot be determined due to the unauthorized removal of a Protected tree, the size shall be determined by measuring the stump that remains or may be determined by anecdotal evidence or interpolated from photographs or adjacent trees. A missing Protected tree shall be assumed to have been in perfect health.

The Landscape Architect shall notify the property owner or alleged violator (if different than the property owner) of the violation and fine in writing. The notice shall include a description of the alleged violation and provide the owner/violator ten business days to request an administrative hearing before the City's Planning Director. The notice shall also indicate that the decision of the Landscape Architect is final unless appealed to the Planning Director. The Planning Director shall consider all relevant evidence. All decisions of the Planning Director are final.

SEC. 10-15.27 COLLECTION OF PENALTIES. Fines for violation of this Chapter are payable at the City's Finance office. Fines must be paid within fifteen business days. The City's Finance Department is authorized to collect all unpaid civil fines.

SEC. 10-15.28 MISDEMEANOR; INJUNCTIVE RELIEF. Violation of any provisions of this Chapter shall be chargeable as a misdemeanor as provided in Article 3 of the Hayward Municipal Code. In addition to the foregoing criminal penalty, violation of any provisions of this Chapter shall be the basis for injunctive relief.

SEC. 10-15.29 IMPOSITION OF LIEN. Any unpaid costs or penalties imposed pursuant to this Chapter shall constitute a special assessment against the real property upon which a violation of this Chapter has occurred. All costs and/or fines shall be itemized in a written report of assessment. The Planning Director shall cause a copy of the report and assessment to be served on the owner of the property not less than five days prior to the time fixed for confirmation of the assessment. Service may be made by enclosing a copy of the report of assessment in a sealed envelope, postage prepaid, addressed to the owner at his or her last known address as the same appears on the last equalized assessment rolls of the County of Alameda and depositing same in the United States mail. Service shall be deemed complete at the time of mailing.

A copy of the report of assessment shall be posted in the Office of the City Clerk on the bulletin board designated for the posting of agendas, not less than three days prior to the time when the report shall be submitted to the City Council. The City Council shall hear the report, together with any objections by the property owner. After the assessment is made and confirmed by the City Council, it shall be a lien on said property.

SEC. 10-15.30 TERMINATION OF PERMIT. Any permit issued shall be valid for a period of 60 days from issuance, unless a longer term is set forth in the permit, or, if an appeal is taken, 60 days from the decision of the City Council. If the work to be done under the terms of the permit is not commenced prior to the expiration of such 60 days, or such longer time as may be provided for, the permit shall become null and void. If the work is commenced under the terms of the permit, it must be completed within a period of 120 days from date of issuance of the permit, or City Council decision, if any, or such longer time as may be provided by the terms of the permit. If it is not so completed, the City Landscape Architect, to secure the public safety and welfare, may order the work completed by City employees or private contractor, and all costs, including administration costs, incident to such completion shall be due and payable to the City by the permittee upon completion and if not paid thereafter, made a lien upon the premises as provided in Section 10-15.29.

(Amended by Ord. 95-10, adopted February 21, 1995)

The Landscape Architect shall notify the property owner or alleged violator (if different than the property owner) of the violation and fine in writing. The notice shall include a description of the alleged violation and provide the owner/violator ten business days to request an administrative hearing before the City's Planning Director. The notice shall also indicate that the decision of the Landscape Architect is final unless appealed to the Planning Director. The Planning Director shall consider all relevant evidence. All decisions of the Planning Director are final.

SEC. 10-15.27 COLLECTION OF PENALTIES. Fines for violation of this Chapter are payable at the City's Finance office. Fines must be paid within fifteen business days. The City's Finance Department is authorized to collect all unpaid civil fines.

SEC. 10-15.28 MISDEMEANOR; INJUNCTIVE RELIEF. Violation of any provisions of this Chapter shall be chargeable as a misdemeanor as provided in Article 3 of the Hayward Municipal Code. In addition to the foregoing criminal penalty, violation of any provisions of this Chapter shall be the basis for injunctive relief.

SEC. 10-15.29 IMPOSITION OF LIEN. Any unpaid costs or penalties imposed pursuant to this Chapter shall constitute a special assessment against the real property upon which a violation of this Chapter has occurred. All costs and/or fines shall be itemized in a written report of assessment. The Planning Director shall cause a copy of the report and assessment to be served on the owner of the property not less than five days prior to the time fixed for confirmation of the assessment. Service may be made by enclosing a copy of the report of assessment in a sealed envelope, postage prepaid, addressed to the owner at his or her last known address as the same appears on the last equalized assessment rolls of the County of Alameda and depositing same in the United States mail. Service shall be deemed complete at the time of mailing.

A copy of the report of assessment shall be posted in the Office of the City Clerk on the bulletin board designated for the posting of agendas, not less than three days prior to the time when the report shall be submitted to the City Council. The City Council shall hear the report, together with any objections by the property owner. After the assessment is made and confirmed by the City Council, it shall be a lien on said property.

SEC. 10-15.30 TERMINATION OF PERMIT. Any permit issued shall be valid for a period of 60 days from issuance, unless a longer term is set forth in the permit, or, if an appeal is taken, 60 days from the decision of the City Council. If the work to be done under the terms of the permit is not commenced prior to the expiration of such 60 days, or such longer time as may be provided for, the permit shall become null and void. If the work is commenced under the terms of the permit, it must be completed within a period of 120 days from date of issuance of the permit, or City Council decision, if any, or such longer time as may be provided by the terms of the permit. If it is not so completed, the City Landscape Architect, to secure the public safety and welfare, may order the work completed by City employees or private contractor, and all costs, including administration costs, incident to such completion shall be due and payable to the City by the permittee upon completion and if not paid thereafter, made a lien upon the premises as provided in Section 10-15.29.

(Amended by Ord. 95-10, adopted February 21, 1995)



CITY OF HAYWARD
NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. *PROJECT DESCRIPTION:*

Text Change Application No. 00-140-01 – Initiated By The Planning Director – An Ordinance Amending The Municipal Code, Chapter 7 Relating To Tree Preservation. The proposed text changes include but are not limited to the following: establishment of fines for unauthorized tree removal and criteria for mitigation of trees removed.

The Tree Preservation Ordinance is enforced Citywide.

FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

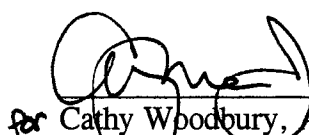
The proposed project will have no significant effect on the environment.

II. *FINDINGS SUPPORTING DECLARATION:*

- A. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared with a determination that the project will not have a significant impact on the environment since the amendments to the Tree Preservation Ordinance will require the implementation of additional regulations, procedures and fees will are designed to preserve trees located on private property citywide.
- B. The implementation of the proposed amendment to the Tree Preservation Ordinance is designed to further preserve aesthetics by enhancing scenic resources and preserving visual character and quality citywide.
- C. The implementation of the proposed amendment to the Tree Preservation Ordinance is will not have an adverse effect on agricultural land.
- D. The implementation of the proposed amendments to the Tree Preservation Ordinance will not result in significant impacts related to changes into air quality and biological resources such as wildlife and wetlands.

- E. The implementation of the proposed amendment to the Tree Preservation Ordinance will not adversely affect cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
- F. The implementation of the proposed amendment to the Tree Preservation Ordinance will not expose people to seismic ground shaking or ground failure. The Ordinance is designed to minimize risks of landslides by preserving trees while minimizing erosion of the top soil.
- G. The implementation of the proposed amendment to the Tree Preservation Ordinance will not lead to the exposure of people to hazardous materials or hazards associated with airports. It will not impair or interfere with adopted emergency response or evacuation plans.
- H. The implementation of the proposed amendment to the Tree Preservation Ordinance will not have an adverse effect on water resources or quality.
- I. The proposed amendment to the Tree Preservation Ordinance will not lead to the physical division of communities nor is it in conflict with the adopted land use plan or policies. In addition the amendment is not in conflict with habitat and conservation plans.
- J. The implementation of the proposed amendment to the Tree Preservation Ordinance will adversely affect mineral resources.
- K. The implementation of the proposed amendment to the Tree Preservation Ordinance will not result in the generation of noise or the exposure of people to noise.
- L. The implementation of the proposed amendment to the Tree Preservation Ordinance will not affect population growth or the availability of housing and will not impact public services.
- M. The implementation of proposed amendment to the Tree Preservation Ordinance will not result in an increase of the use or recreational facilities.
- N. The implementation of the proposed amendment to the Tree Preservation Ordinance will not cause an increase of traffic nor result in changes to traffic patterns or emergency vehicle access.
- O. The implementation of the proposed amendment to the Tree Preservation Ordinance will not require additional utilities of service systems.

III. **PERSON WHO PREPARED INITIAL STUDY:**

 **Amie, ASSOCIATE PLANNER**
for Cathy Woodbury, ASLA/AICP Principal Planner/Landscape Architect
Dated: June 1, 2000

IV. **COPY OF INITIAL STUDY IS ATTACHED**

For additional information, please contact the City of Hayward, Development Review Services Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4210, or e-mail cathyw@ci.hayward.ca.us.

DISTRIBUTION/POSTING

Provide copies to all organizations and individuals requesting it in writing.

Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.

Project file.

Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



Environmental Checklist Form

1. Project title: Text Change Application No. 00-140-01- Tree Preservation Ordinance
2. Lead agency name and address: City Of Hayward, 777 B Street, Hayward, CA..94541-5007
3. Contact person and phone number: Cathy Woodbury, ASLA/AICP Principal Planner/Landscape Architect – (510) 583-4210
4. Project location: Citywide
5. Project sponsor's name and address: City Of Hayward, 777 B Street, Hayward, CA 94541-5007
6. General plan designation: All general plan designations
7. Zoning: All zoning districts
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)– Initiated By The Planning Director – An Ordinance Amending Various Sections Of The Municipal Code, Chapter 7 Relating To Tree Preservation. The proposed text changes include but are not limited to the following: establishment of fines for unauthorized tree removal and criteria for mitigation of trees removed.
9. Surrounding land uses and setting: Briefly describe the project's surroundings: Citywide
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) N/A

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

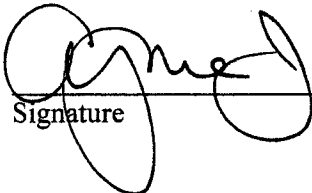
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

 Camille ASSOCIATE
PLANNER

Signature

6/1/00

Date

For Cathy Woodbury, ASLA/AICP Principal Planner/Landscape Architect
Printed Name

City of Hayward
Agency

ENVIRONMENTAL ISSUES:

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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I. AESTHETICS -- Would the project:

- a) Have a substantial adverse effect on a scenic vista?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The intent of the Tree Preservation Ordinance and the proposed amendment is to protect scenic beauty of the City. Therefore, the amendment to the Tree Preservation Ordinance will not adversely affect scenic vistas.

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? *See Ia*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- c) Substantially degrade the existing visual character or quality of the site and its surroundings? *See Ia*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? *See Ia*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? *The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed. The amendments will not lead to the conversion of farmland to non-agricultural uses.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? *The amendment to the Tree Preservation Ordinance will not negatively affect any agricultural land uses.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? *See IIa.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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III. **AIR QUALITY** – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees, and will not adversely affect air quality.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? <i>See IIIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? <i>See IIIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations? <i>See IIIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people? <i>See IIIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

IV. **BIOLOGICAL RESOURCES** -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not adversely affect biological resources.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? <i>See IVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? <i>See IVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? <i>See IVa</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? <i>See IVa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. CULTURAL RESOURCES – Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not adversely affect cultural resources.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? <i>See Va.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? <i>See Va.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries? <i>See Va.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not adversely affect geology or soils.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides? <i>The intent of the Tree Preservation Ordinance and proposed amendment is to minimize risks of landslides by preserving trees, mitigating the removal of trees and requiring the replacement of trees that have been removed.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil? <i>The intent of the Tree Preservation Ordinance and proposed amendment is to minimize risks of soil erosion or loss of topsoil by preserving trees, mitigating the removal of trees and requiring the replacement of trees that have been removed.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? <i>See VI(a)i.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VII. HAZARDS AND HAZARDOUS MATERIALS <input type="checkbox"/> Would the project:				<input checked="" type="checkbox"/>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? <i>The amendment to the Tree Preservation Ordinance is designed to further protect trees and will not create hazards to public safety or the environment through the transport, use, release, or disposal of hazardous materials.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <i>See VIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? <i>See VIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? <i>See VIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? <i>The amendment to the Tree Preservation Ordinance will not result in safety hazards for people working or residing within the City.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? <i>The amendment to the Tree Preservation Ordinance will not result in safety hazards for people working or residing within the City.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? <i>The amendment to the Tree Preservation Ordinance will not interfere with adopted emergency response or evacuation plans.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? <i>The amendment to the Tree Preservation Ordinance will not expose people to risks resulting from wildland fires.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

a) Violate any water quality standards or waste discharge requirements? <i>The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed and to preserve trees through the implementation of sound pruning methods. The amendments will not adversely affect hydrology or water quality.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <i>See VIIIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community? <i>The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed. The implementation will not physically divide an established community.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? <i>The amendment to the Tree Preservation Ordinance is designed to protect trees, replace damaged or missing trees and to preserve trees through the implementation of sound pruning methods. The text changes will not conflict with any land use plan, policy or regulations.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? <i>The amendment to the Tree Preservation Ordinance will not conflict with habitat conservation plans or natural community conservation plans.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

X. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? <i>The amendment to the Tree Preservation Ordinance will not result in the loss of the availability of any known mineral resource.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? <i>See Xa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XI. NOISE – Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? *The amendment to the Tree Preservation Ordinance will not expose persons to or result in the generation of any noise levels.*

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b) Exposure of persons to or generation of excessive ground-borne vibration or groundborne noise levels? *The amendment to the Tree Preservation Ordinance will not result in the exposure of persons to noise or generation of excessive ground-borne vibration or ground-borne noise levels.*

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c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? *See XIa.*

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d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? *See XIa.*

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e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? *See XIa.*

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f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? *See XIa.*

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XII. POPULATION AND HOUSING -- Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? *The amendment to the Tree Preservation Ordinance is designed to protect and replace trees that have been damaged or removed and implement sound pruning methods. The implementation of the text changes will not adversely affect population or housing.*

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b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? *See XIIIa.*

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c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? *See XIIIa.*

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Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services. *The amendment to the Tree Preservation Ordinance is designed to protect trees, replace trees that have been damaged or removed and to implement sound pruning methods. The implementation of the text changes will not adversely affect public services.*

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Fire protection? *See XIIIa.*

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Police protection? *See XIIIa.*

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Schools? *See XIIIa.*

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Parks? *See XIIIa.*

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Other public facilities? *See XIIIa.*

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XIV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? *The amendment to the Tree Preservation Ordinance is designed to protect trees, replace trees that have been damaged or removed, and to preserve trees by introducing sound tree pruning procedures.*

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b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? *See XIVa.*

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Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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XV. TRANSPORTATION/TRAFFIC -- Would the project:

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? <i>The amendment to the Tree Preservation Ordinance is designed to protect trees, replace trees that have been damaged or removed, and to preserve trees by introducing sound tree pruning procedures. Transportation, transportation facilities, traffic, emergency access and parking will not adversely affected by the implementation of the text changes..</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Result in inadequate parking capacity? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? <i>See XVa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? <i>The implementation of text changes to the Tree Preservation Ordinance will not adversely affect utilities and service systems.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>See XVIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>See XVIa.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? <i>See XVIa.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

John W. Kyle
22638 Teakwood Street
Hayward, Ca. 94541
Home Phone (510) 782-7612

RECEIVED

APR 02 2002

PLANNING DIVISION

March 26, 2002

Ms. Lorna Carranza, RLA, ASLA
City of Hayward
Planning Division
777 "B" St.
Hayward, Ca. 94541

Reference : PL 2002-0042 "TREES"

The initial amusement afforded me on this subject had to do with the words in the phrase.. "standard recognized valuation" as found in the (post card) mailed notice which sought comment and advised date of hearing. The follow up amusement had to do with the first class postage paid not at the post card rate but regular one ounce envelope type expense. Nice that the city has plenty wampum which enables extra postage!

In 10th edition of Merriam Webster's Collegiate Dictionary, page 1305, Copyrighted 1997 the definition of valuation is as follows: 1:) the act or process of valuing; appraisal of property 2:) the estimated or determined market value of a thing; 3:) judgment or appreciation of worth or character.

Accepted appraisal practice of land and improvements (where landscape is accepted as an improvement) requires determination of value by three approaches. The cost approach together with the market approach and the income approach involve development of data from the market place. Having developed those three, separate indications of value, the appraiser is required to correlate or explain which is the best of the three indications by rationalization to the point where a knowledgeable reader will accept the opinion.

Regression analysis, a process of determining value of differences within the gathered details can be done by drawing or extracting adjustments from the market place in such numbers as to validate each adjustment. Aggregated adjustments in excess of 15% of the price indication involving any individual sale used in the comparison generally invalidates the sale from being useful. Thus the search for comparable sales with highly similar amenity and few differences becomes time consuming.

The cost of an appraisal of a single tree on a property is probably prohibitive unless it is of such small size that it can be relocated. Costs of relocation may exceed value. When trees are of such maturity that they can not be successfully moved or transplanted, an economic condition exists where the appraisal might become subjective. Will appraiser's fee equal or exceed tree value?

So now we see that economics may compel value to be determined by judgment of a city employee in which case costs of disputing the judgment would presumably be borne by the property owner. Is that not an invitation to troublesome public relations? How many are the ordinances presently on the books which are actually enforced? Do we really need another?

On the subject of tree trimming, beauty is in the eye of the beholder. Who among staff is capable of defending their judgment when confronted by an irate tax payer?

ATTACHMENT D

As an example, in an act of maintaining an emotional, distant in time, family identity with Australia, I planted an evergreen Australian Camphor tree in front of my home. I have had neighbors come to me and express disappointment at the fact that I thin it out and attempt to place limitations upon the height of the tree. I do this for purposes of scale in relation to my dwelling as well as the practical matter of avoiding growth of heavy limbs which may eventually become so heavy as to create potential for legal liability. I keep the tree trimmed back with sufficient ground clearance as to avoid interference with street cleaning equipment etc.

I would be upset if anyone told me that I could not prune my tree unless the trim was performed to a standard which they, (the neighbors,) have established in their mind's eye. I couldn't get a dime from them if enforcement of their opinion led to my being sued for personal injury because their opinions controlled my actions.

I understand that my lot of land would not be affected by suggested changes to the existing ordinances. However, my opinion of the proposals relate, in my mind, to my lot. I extend that idea to incorporate some situations experienced by me in my working career as an appraiser of real property. That experience included much involvement with residential tract development as well as land which is to be subdivided or developed to higher and better use, as in R & D Parks etc.

Usually a developer does not need to be told how to act in his own best interests. An example of this occurred with an appraisal I once performed involving a Marin County client who developed land for single family detached unit types on a parcel zoned for planned unit development. The land had dense forrestation but developer ingeniously saved 90% of the trees found on the site where density of dwellings exceeded five units per acre and density of trees provided shade, at ground level, of a very high percentage of the land, (75% +). The managing partner in this development firm was smart enough to know that he could enhance his marketing plan by selling aesthetics as well as housing.

On sites having moderate to steep slopes, a rational developer will have consulted with a licensed engineer who specializes in soil mechanics; usually a civil engineer with an educational background in geomorphology. That consultant is usually requested to review details of the development plan with attention to foundations, slope controls and drainage. Periodic inspection during construction for purposes of assuring compliance with his recommendations, even down to the last step which is to assure compliance with final grading, drainage detail and paving will include attention to the trees. That sort of 'consultation' usually considers landscape detail.

If the city has a concern before approval of the project, all it really needs to do is to assure itself that the engineer (soils mechanic) is willing to deliver a letter prior to issuance of 'certificate of occupancy' to the effect that all his recommendations have been met.

Spoilage of view on another site is not a matter of concern to the city. If a view on one site has potential for being spoiled by development on another then the answer to that problem is to acquire easements or height restrictions prior to the development on the pre-existing site. The famous beef involving the Oakland office building on the northwest corner of Franklin and 14th Streets should have been taught in public administration classes. Windows in that structure faced a concrete wall when the newer structure was built on 14th St.

Frankly, my opinion of City planning commission and City council is quite poor when it comes to making judgment calls of this nature. None have brought the needed training or experience to the table. We even have one commissioner who voted against a Hayward project (Bailey Property) because he did not personally like an unrelated project, located well away from Hayward (Five Canyons) which, in his exalted opinion, was 'a fungus growing on the hills!'. Such thought processes should not be permitted involvement with judgments about trees.

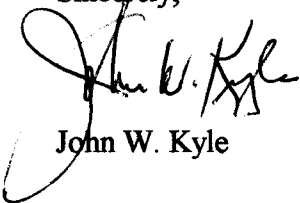
The notice delivered to me had a cartoon depicting a tree closely cropped to the trunk. That is a scare tactic intended to conjure visions of a city ravaged by a robotic mind in control of a battalion of tree hating chain saw wielders. The thought seems a to be that unless we have a new ordinance, the entire city will have trees with similar damage almost overnight.

Let the city confine it's activity to trees in the right of way where such as PG&E, hire contractors of varying quality to trim public trees in close proximity to power lines etc.

If we really need a new ordinance, let it be directed to correction of the problem found at homes where bootleg additions have been added by inept homeowners and subsequently sold to unsuspecting buyers whose trust in the sales person was misplaced. Frankly there exists in this city ample evidence that the garage conversion ordinance did not go far enough in protection of life, limb and health of unsuspecting occupants.

I enclose page 10-15-2 of your current ordinance upon which I have highlighted some questionable items and then annotated comments. I think you ought to eliminate that sort of thinking from the current ordinance.

Sincerely,

A handwritten signature in dark ink, appearing to read "John W. Kyle". The signature is fluid and cursive, with a large initial "J" and "K".

John W. Kyle

- (1) The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, interference with utility services, and interference with neighboring property owner's views.
 - (2) Necessity to remove trees in order to construct proposed improvements to allow enjoyment of substantial property rights.
 - (3) Topography of the land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters.
 - (4) The number of trees existing in the neighborhood and the effect of tree removal upon property values in the area.
 - (5) Good forestry practices, i.e., the number of healthy trees that a given parcel will support.
 - (6) The tree in question is of landmark importance and its retention as such will not unreasonably interfere with the use of the property upon which it is located.
- The Landscape Architect shall give priority of inspection to those requests based on hazard or danger of disease.
- (c) In case of emergency caused by a tree being in a hazardous or dangerous condition, such tree may be removed with permission of any member of the police or fire departments, or the Landscape Architect.
 - (d) No person shall cut, move, or remove any tree in violation of the terms or conditions of any permit granted hereunder.
 - (e) The Landscape Architect or his or her designated representative may condition approval of tree removal upon the planting of replacement trees.

(Amended by Ord. 95-10, adopted February 21, 1995)

SEC. 10-15.25 APPEALS. Any decision made by the Landscape Architect or his or her designated representative may be appealed to the City Council. Such appeal must be submitted in writing to the City Clerk within 10 days of the date action was taken by the Landscape Architect, and briefly state the grounds for such appeal. The City Clerk shall set the matter for hearing before the City Council no later than 30 days from the date of filing such appeal, and shall notify appellant and the Landscape Architect of such hearing date.

In determining the appeal, the City Council shall be guided by the criteria for issuance of a permit and may affirm reverse or modify the action taken by the Landscape Architect. The action of the City Council shall be final and conclusive.

(Amended by Ord. 95-10, adopted February 21, 1995)

WILL THE
NEIGHBOR
BUY THE
RIGHTS?
Rise significantly
What determines
an adequate
number of
who measures
loss of value?